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**MOURNING-DOVE RULES  
HELD CONSTITUTIONAL**

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Court Declares Conservation  
Purpose Transcends  
Sport of Hunting

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Objections to Federal mourning-dove hunting regulations on constitutional grounds have been over-ruled.

Judge H. Church Ford in Federal court at Lexington, Ky., has declared that the act of Congress giving the Secretary of Agriculture power to set hunting seasons on migratory game birds and the regulations adopted thereunder are "valid and constitutional." The section of the act involved in the ruling prohibits the hunting of migratory game birds except during such seasons and by such means and methods as the Secretary shall permit by regulations.

The ruling, says the Biological Survey, which administers the Federal bird laws, was made in an opinion handed down on August 31, dismissing an action instituted by local sportsmen who objected to extending the close season on mourning doves to September 21. The complainants, says the Bureau, sought to enjoin the United States Marshal and United States District Attorney from enforcing the regulations. The regulations, they argued, resulted from an unconstitutional delegation of legislative power and violated the due-process-of-law provision of the Fifth Amendment.

Commenting on the contention that the regulation was based on an unconstitutional delegation of power, Judge Ford pointed out that the recent NRA cases on which the complainants relied "clearly recognize that, while Congress cannot delegate its legislative power, it may confer upon executive officers the power to make regulations, as administrative rules, for the appropriate execution of the governmental policy laid down in the statutes."

"The authority to make administrative rules," said the Judge, "is not a delegation of legislative power nor are such rules raised from an administrative to a legislative character because the violation thereof is punishable as a public offense."

"In making the migratory bird treaty with Great Britain," said Judge Ford, "the policy stated is to provide adequate protection for migratory birds by establishing close season during which no hunting should be done." Congress, he said, "recognized that, in fixing and altering, from time to time, the close season, regard must be had to conditions of distribution, abundance, etc. In the nature of things, it was impracticable for Congress to provide general regulations for these various and varying details of administration. What might be injurious to migratory birds under some conditions or in certain years might not be so under other conditions in other years. It seems clear that, in authorizing the Secretary of Agriculture to meet these varying conditions, Congress was merely conferring administrative functions within the narrow limitations of the treaty, regulated by a very clearly defined standard and to effect a clearly announced purpose."

The Federal judge also denied the contention by the complainants that the delegation of power to make hunting regulations based upon a finding of fact, without a hearing, comes under the condemnation of the due-process clause of the Fifth amendment. "The constitutional guarantee that no person shall be deprived of life, liberty or property without due process of law," he declared, "does not limit and was not intended to limit governmental regulation and control of migratory birds in which no right of individual property exists."

Sustaining the objections to the regulations, said Judge Ford, "would perhaps be far more disastrous to the sport in which these complainants are interested than the slight restrictions of which they now complain."

Emphasizing the public interest in the migratory birds, the Judge also pointed out that "concern for the welfare and protection of our migratory birds is not by any means limited to those whose chief interest in them rests in the sport of hunting and killing them. The object of providing for their protection and preservation reaches far beyond the motive of the huntsmen and the sport of hunting."